

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

*In re: Clearview AI, Inc. Consumer
Privacy Litigation*

)
)
) Case No. 1:21-cv-00135
)
) Judge Sharon Johnson Coleman
) Magistrate Judge Maria Valdez
)

**MOTION FOR LEAVE TO FILE *INSTANTER*
AMENDED AFFIRMATIVE DEFENSES AND AN AMENDED
COUNTERCLAIM FOR A DECLARATORY JUDGMENT**

Defendants Clearview AI, Inc. (“Clearview”), Rocky Mountain Data Analytics LLC (“Rocky Mountain”), Thomas Mulcaire, Hoan Ton-That, and Richard Schwartz (collectively, the “Clearview Defendants”), by their undersigned counsel, respectfully move for leave to file *instante* Amended Affirmative Defenses and an Amended Counterclaim for a Declaratory Judgment along with their Answer to the Second Amended Consolidated Class Action Complaint filed by Plaintiffs David Mutnick, Steven Vance, Mario Calderon, Anthony Hall, Isela Carmean, Shelby Zelonis Roberson, Andrea Vestrand, and Aaron Hurvitz (collectively, the “Plaintiffs”), as follows:

1. Plaintiffs filed a Second Amended Consolidated Class Action Complaint on August 22, 2022.
2. The Clearview Defendants’ Answer and Defenses to Plaintiffs’ Second Amended Consolidated Class Action Complaint is due September 12, 2022.
3. Out of an abundance of caution, the Clearview Defendants request leave of this Court pursuant to Federal Rule of Civil Procedure 15(a)(2) to amend their Affirmative Defenses to remove the extraterritoriality defense as to California and Virginia, and to amend their Affirmative Defenses and Counterclaim to modify certain factual allegations to conform to the

evidence adduced in discovery, mainly that Clearview contracts directly with government agencies as well as contractors and subcontractors of government entities. For ease of reference, the Clearview Defendants have included a redline showing the changes made to their Affirmative Defenses and Counterclaim. *See* Exhibit A.

WHEREFORE, the Clearview Defendants respectfully request that the Court grant leave to file *instanter* Amended Affirmative Defenses and an Amended Counterclaim for a Declaratory Judgment.

Dated: September 12, 2022

Respectfully submitted,

By: /s/ Precious S. Jacobs-Perry
Precious S. Jacobs-Perry

Howard S. Suskin
JENNER & BLOCK LLP (05003)
353 North Clark Street Chicago, Illinois
60654 Phone: (312) 222-9350
pjacobs-perry@jenner.com
hsuskin@jenner.com

Lee Wolosky (*pro hac vice*)
Andrew J. Lichtman (*pro hac vice*)
JENNER & BLOCK LLP
919 Third Avenue
New York, New York 10022-3908
Phone: (212) 891-1600
lwolosky@jenner.com
alichtman@jenner.com

*Attorneys for Defendants Clearview AI, Inc.,
Rocky Mountain Data Analytics LLC, Thomas
Mulcaire, Hoan Ton-That, and Richard
Schwartz*

CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2022, I electronically filed the foregoing using the Court's CM/ECF system, which effected service on all counsel of record.

/s/ Precious Jacobs-Perry

Precious Jacobs-Perry